

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2012070572

v.

LIVE OAK ELEMENTARY SCHOOL
DISTRICT and SANTA CRUZ COUNTY
OFFICE OF EDUCATION,

LIVE OAK ELEMENTARY SCHOOL
DISTRICT,

OAH CASE NO. 2012120475

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING MOTION TO
CONSOLIDATE

On July 18, 2012, Student filed a Request for Due Process Hearing in OAH case number 2012070572 (First Case), naming Live Oak School District (District) and Santa Cruz County Office of Education (SCCOE) as respondents.

On December 11, 2012, District filed a Request for Due Process Hearing in OAH case number 2012120475 (Second Case), naming Student. District concurrently filed a Motion to Consolidate the First Case with the Second Case and to proceed with the scheduling order and due process hearing date set in the first case.

Student did not file a response to the motion and SCCOE does not object to the motion. The motion is granted based upon the law and discussion below.

Consolidation

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; and when consolidation of the matters furthers the interests of judicial economy by saving time or preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

Here, the First Case and Second Case involve a common question of law or fact, specifically, The First Case names District and SCCOE. The complaint alleges four causes of action or issues. Issue Two alleges District's offer of placement and services in the June 12, 2012 individualized educational program (IEP) failed to provide a free appropriate public education (FAPE). The sole issue in the Second Case is whether District's offer in the June 12, 2012 IEP constitutes a FAPE. Respondent SCCOE does not oppose the motion and Student failed to file a response to the motion.

Consolidation is appropriate in this matter because the cases involve the same issues regarding the provision of a FAPE in the June 12, 2012 IEP and proposed placement in a Special Day Class (SDC) through the SCCOE, the same parties, and the same witnesses. In addition, consolidation furthers the interests of judicial economy because the consolidated matters will be heard on the current scheduling order issued December 5, 2012 in the First Case which will not cause undue delay. Accordingly, consolidation is granted.

ORDER

1. District's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2012120475 (Second Case) are vacated.
3. The First Case OAH Case Number 2012070572 is designated as the primary case
4. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of the complaint in OAH Case Number 2012070572 (First Case).

Dated: December 18, 2012

/s/

STELLA OWENS-MURRELL
Administrative Law Judge
Office of Administrative Hearings